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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,652	11/26/2001	Daniel C. Shaw	6278.244a	4497

7590 12/18/2002

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EXAMINER

FETSUGA, ROBERT M

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/991,652

Applicant(s)

SHAW ET AL.

Examiner

Robert M. Fetsuga

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspond nc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2002 and 08 November 2002 .
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-34, 36-46 and 48-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-34, 36-46 and 48-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 23 October 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____ .

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1. The status of the parent application(s) has(have) been updated.
2. The proposed drawing correction filed on October 23, 2002 has been approved.
3. Claims 28, 43, 50 and 51 in "APPENDIX C" filed October 23, 2002 have been renumbered as claims 27, 42, 48 and 49, respectively.
4. The disclosure is objected to because of the following informalities: page 22, line 25, "188" apparently should be --198--. The proposed amendment filed in the response of October 23, 2002 was not perfected in the response filed November 8, 2002.

Appropriate correction is required.

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "detector" set forth in claims 27, 42 and 48 could not be found in the specification. Applicant argues at page 6 of the response filed October 23, 2002 particular locations where proper antecedent basis can be found. However, the examiner has again reviewed the noted locations, but the term still was not found relative to a drawing figure.

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 27, 34, 48 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Robertshaw.

The Robertshaw reference discloses a control system comprising: a fixture S; a source of water T; a valve SV; a detector DS (col. 1 lns. 38-40); and a controller 10,12, as claimed. Applicant argues at page 8 of the response filed October 23, 2002 the Robertshaw delay period is not adjustable. To the contrary, attention is directed to Robertshaw at column 2, lines 33-35 and 40-43, where delay adjustment is explicitly disclosed.

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8. Claims 27, 48 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Atkins et al.

The Atkins et al. (Atkins) reference discloses a control system comprising: a fixture 10; a source of water (feeding 14); a valve 14; a detector 36; and a controller 18 (col. 5 ln. 6 thru col. 6 ln. 2), as claimed. Applicant argues at page 8 of the response filed October 23, 2002 the Atkins delay period is not adjustable. To the contrary, the Atkins controller is capable of adjustment depending upon the particular elements (capacitors, resistors, etc.) selected therefor. It is noted capacitor 42 of Atkins is a "variable" capacitor (col. 2 lns. 58-59). Applicant's broad claim language does not distinguish the Atkins disclosure.

9. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robertshaw.

The choice of delay period would appear an obvious choice to be made.

10. Claims 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins.

The choices of controller type and delay period would appear obvious choices to be made.

11. Claims 28-33 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins and Bellamy.

Utilization of the Atkins control system with a plurality of fixtures would have been obvious in order to implement the benefits of the Atkins system in a building containing a plurality of fixtures. The Bellamy reference indicates it is well known to automatically control a plurality of fixtures arranged on different floors of a building, for example. Note Fig. 9. Applicant argues at pages 9-10 of the response filed October 23, 2002 Bellamy does not disclose controlling a fixture for an adjustable period of time. However, Bellamy indeed does teach controlling a plurality of fixtures in a building.

Re claim 30, Bellamy further teaches it is desirable to operate a fixture valve by either a motor or solenoid. Note column 3, lines 11-15. Re claim 32, Bellamy further yet teaches it is desirable to remotely dispose a controller of a building fixture control system. Note Fig. 9.

12. Claims 37-39, 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins and Bellamy as applied to claim 28 above, and further in view of Morris et al.

Morris et al. (Morris) teach provision of a valve status indicator associated with a controlled fixture to be desirable where such fixture is in a penal institution, for example. Note column 8, lines 17-35.

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13. Claims 40, 41, 45, 46 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins and Bellamy as applied to claim 28 above, and further in view of Fraser and Book.

Provision of a disabling switch associated with a particular electrically controlled device operating in a system of such devices would have been obvious as being notoriously well known and desirable to prevent the particular device from operating should it be malfunctioning, for example. Note column 11, lines 2-3, in the Book reference. Furthermore, provision of a master switch associated with a control system would have been obvious as being notoriously well known and desirable. The Fraser reference illustrates in Fig. 8 a remotely disposed master switch associated with a control system.

14. Applicant's remarks have been fully considered and either have been previously addressed or are not deemed persuasive in view of the prior art as specifically applied in light of the level of skill in the pertinent art.

15. The grounds of rejection have been reconsidered in light of applicant's arguments, but are still deemed to be proper.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

16. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 703/308-1506 who can be most easily reached Tuesday through Thursday.

A handwritten signature in black ink, appearing to read 'Robert M. Fetsuga', with a stylized flourish at the end.

Robert M. Fetsuga
Primary Examiner
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